

Enrolled
House Bill 2286

Sponsored by Representative WITT; Representative POWER (Pre-session filed.)

CHAPTER

AN ACT

Relating to investment of moneys used to fund scholarship program for children of public safety officers; creating new provisions; and amending ORS 131A.360, 131A.365 and 178.320.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 131A.360, as amended by section 1, chapter 23, Oregon Laws 2018, is amended to read:

131A.360. (1) The provisions of this section apply only to a forfeiting agency other than the state, and apply only to forfeiture proceeds arising out of prohibited conduct as described in ORS 131A.005 (12)(a), (b) and (c).

(2) If the forfeiting agency is not a county, the forfeiting agency shall enter into an agreement, under ORS chapter 190, with the county in which the property was seized to provide a portion of the forfeiture proceeds to the county.

(3) After entry of a judgment of forfeiture, a forfeiting agency shall first pay from the forfeiture proceeds the costs incurred by seizing and forfeiting agencies in investigating and prosecuting the case, including costs, disbursements and attorney fees as defined in ORCP 68 A, special expenses such as the provision of currency for undercover law enforcement operations, the cost of disabling a hidden compartment in a motor vehicle and the expenses of maintaining the seized property. The forfeiting agency may not pay expenditures made in connection with the ordinary maintenance and operation of a seizing or forfeiting agency under this subsection.

(4) After payment of costs under subsection (3) of this section, the forfeiting agency shall:

(a) Deduct an amount equal to five percent of the forfeiture proceeds and deposit that amount in the Illegal Drug Cleanup Fund established under ORS 475.495 for the purposes specified in ORS 475.495 (5) and (6);

(b) Deduct an amount equal to 2.5 percent of the forfeiture proceeds and deposit that amount in the Asset Forfeiture Oversight Account;

(c) Deduct an amount equal to 20 percent of the forfeiture proceeds and deposit that amount in the Oregon Criminal Justice Commission Account established under ORS 137.662 for support for specialty courts as defined in ORS 137.680;

(d) Deduct an amount equal to 10 percent of the forfeiture proceeds and deposit that amount in the Early Learning Division Fund established under ORS 326.435 for disbursement to Relief Nursery programs as defined in ORS 417.786; and

(e) Deduct an amount equal to 10 percent of the forfeiture proceeds and deposit that amount in *[the Oregon 529 College Savings Plan Subaccount established under ORS 178.320]* **an account established or designated by the State Treasurer in the higher education qualified tuition**

savings program of the Oregon 529 Savings Network for disbursement to the scholarship program for children of public safety officers established under ORS 348.270.

(5) If the forfeiting agency has entered into an agreement with a county under subsection (2) of this section, after paying costs under subsection (3) of this section and making the deductions required by subsection (4) of this section, the forfeiting agency shall pay the county the amounts required by the agreement.

(6) After making all payments and deductions required by subsections (3), (4) and (5) of this section, the forfeiting agency may use the remaining forfeiture proceeds, including amounts received by a county under subsection (5) of this section or by any other public body under an intergovernmental agreement entered into under ORS 131A.355, only for:

(a) The purchase of equipment necessary for the enforcement of laws relating to the unlawful delivery, distribution, manufacture or possession of controlled substances;

(b) Currency for undercover law enforcement operations;

(c) Drug awareness and drug education programs offered in middle schools and high schools;

(d) The expenses of a forfeiting agency in operating joint narcotic operations with other forfeiting agencies pursuant to the terms of an intergovernmental agreement, including paying for rental space, utilities and office equipment;

(e) Expenses of a district attorney in criminal prosecutions for unlawful delivery, distribution, manufacture or possession of controlled substances, as determined through intergovernmental agreement between the forfeiting agency and the district attorney;

(f) Drug treatment and programs that support drug treatment; and

(g) A CASA Volunteer Program as defined in ORS 184.489.

(7) Notwithstanding subsection (6) of this section, growing equipment and laboratory equipment seized by a forfeiting agency that was used, or intended for use, in the manufacturing of controlled substances may be donated to a public school, community college or institution of higher education.

(8) A forfeiting agency shall sell as much property as may be needed to make the distributions required by this section. Distributions required under subsection (4) of this section must be made once every three months and are due within 20 days of the end of each quarter. No interest shall accrue on amounts that are paid within the period specified by this subsection.

SECTION 2. ORS 131A.365, as amended by section 2, chapter 23, Oregon Laws 2018, is amended to read:

131A.365. (1) The provisions of this section apply only when the forfeiting agency is the state, and apply only to forfeiture proceeds arising out of prohibited conduct as described in ORS 131A.005 (12)(a), (b) and (c).

(2) After entry of a judgment of forfeiture, a forfeiting agency shall first pay from the forfeiture proceeds the costs incurred by seizing and forfeiting agencies in investigating and prosecuting the case, including costs, disbursements and attorney fees as defined in ORCP 68 A, special expenses such as the provision of currency for undercover law enforcement operations, the cost of disabling a hidden compartment in a motor vehicle and the expenses of maintaining the seized property. The forfeiting agency may not pay expenditures made in connection with the ordinary maintenance and operation of a seizing or forfeiting agency under this subsection. Any amount paid to or retained by the Department of Justice under this subsection shall be deposited in the Criminal Justice Revolving Account in the State Treasury. Any amount paid to or retained by the Oregon State Police under this subsection shall be deposited in the State Police Account.

(3) After payment of costs under subsection (2) of this section, the forfeiting agency shall:

(a) Deduct an amount equal to 10 percent of the forfeiture proceeds and deposit that amount in the Illegal Drug Cleanup Fund established under ORS 475.495 for the purposes specified in ORS 475.495 (5) and (6);

(b) Deduct an amount equal to three percent of the forfeiture proceeds, not to exceed \$50,000 in a biennium, and deposit that amount in the Asset Forfeiture Oversight Account;

(c) Deduct an amount equal to 20 percent of the forfeiture proceeds and deposit that amount in the Oregon Criminal Justice Commission Account established under ORS 137.662 for support for specialty courts as defined in ORS 137.680;

(d) Deduct an amount equal to 10 percent of the forfeiture proceeds and deposit that amount in the Early Learning Division Fund established under ORS 326.435 for disbursement to Relief Nursery programs as defined in ORS 417.786; and

(e) Deduct an amount equal to 10 percent of the forfeiture proceeds and deposit that amount in *[the Oregon 529 College Savings Plan Subaccount established under ORS 178.320]* **an account established or designated by the State Treasurer in the higher education qualified tuition savings program of the Oregon 529 Savings Network** for disbursement to the scholarship program for children of public safety officers established under ORS 348.270.

(4) If the forfeiting agency has entered into an intergovernmental agreement with another public body under ORS 131A.355, or has entered into an agreement with any other law enforcement agency of the state relating to distribution of forfeiture proceeds, after paying costs under subsection (2) of this section and making the deductions required by subsection (3) of this section, the forfeiting agency shall pay an equitable portion of the forfeiture proceeds to each agency participating in the seizure or forfeiture as provided by the agreement.

(5) After making all payments and deductions required by subsections (2), (3) and (4) of this section, the forfeiting agency shall distribute the remaining forfeiture proceeds as follows:

(a) If no law enforcement agency other than the Department of Justice participated in the seizure or forfeiture, the remaining forfeiture proceeds, and forfeiture proceeds received by the Department of Justice under subsection (4) of this section, shall be divided between the Criminal Justice Revolving Account and the Special Crime and Forfeiture Account according to the following schedule:

(A) One hundred percent of the first \$200,000 accumulated shall be deposited in the Criminal Justice Revolving Account.

(B) Seventy-five percent of the next \$200,000 shall be deposited in the Criminal Justice Revolving Account and the balance in the Special Crime and Forfeiture Account.

(C) Fifty percent of the next \$200,000 shall be deposited in the Criminal Justice Revolving Account and the balance in the Special Crime and Forfeiture Account.

(D) Twenty-five percent of the next \$200,000 shall be deposited in the Criminal Justice Revolving Account and the balance in the Special Crime and Forfeiture Account.

(E) One hundred percent of all additional sums shall be deposited in the Special Crime and Forfeiture Account.

(b) If no law enforcement agency other than the Department of State Police participated in the seizure or forfeiture, the remaining proceeds, and proceeds received by the Department of State Police under subsection (4) of this section, shall be divided between the State Police Account and the Special Crime and Forfeiture Account according to the following schedule:

(A) One hundred percent of the first \$600,000 accumulated shall be deposited in the State Police Account.

(B) Seventy-five percent of the next \$300,000 shall be deposited in the State Police Account and the balance in the Special Crime and Forfeiture Account.

(C) Fifty percent of the next \$200,000 shall be deposited in the State Police Account and the balance in the Special Crime and Forfeiture Account.

(D) Twenty-five percent of the next \$200,000 shall be deposited in the State Police Account and the balance in the Special Crime and Forfeiture Account.

(E) One hundred percent of all additional sums shall be deposited in the Special Crime and Forfeiture Account.

(6) Forfeiture proceeds distributed under subsection (5) of this section may be used only for:

(a) The purchase of equipment necessary for the enforcement of laws relating to the unlawful delivery, distribution, manufacture or possession of controlled substances;

(b) Currency for undercover law enforcement operations;

- (c) Drug awareness and drug education programs offered in middle schools and high schools; and
- (d) The expenses of a forfeiting agency in operating joint narcotic operations with other forfeiting agencies pursuant to the terms of an intergovernmental agreement, including paying for rental space, utilities and office equipment.

(7) A forfeiting agency shall sell as much property as may be needed to make the distributions required by this section. Distributions required under subsection (3) of this section must be made once every three months and are due within 20 days of the end of each quarter. No interest shall accrue on amounts that are paid within the period specified by this subsection.

SECTION 3. ORS 178.320, as amended by section 3, chapter 23, Oregon Laws 2018, is amended to read:

178.320. (1) The Oregon 529 Savings Network Fund is established in the State Treasury, separate and distinct from the General Fund. The Oregon 529 Savings Network Fund shall consist of the Oregon 529 College Savings Plan Subaccount and the Oregon 529 ABLE Subaccount. Interest earned by each subaccount shall be credited to the subaccount.

(2)(a) All moneys credited to the Oregon 529 College Savings Plan Subaccount are continuously appropriated to the Oregon 529 Savings Board for the purpose of administering accounts established for qualified higher education expenses under ORS 178.300 to 178.355.

(b) All moneys credited to the Oregon 529 ABLE Subaccount are continuously appropriated to the board for the purpose of administering a qualified ABLE program pursuant to ORS 178.380.

(3) Each subaccount in the Oregon 529 Savings Network Fund shall consist of:

(a) Moneys appropriated to the subaccount by the Legislative Assembly;

(b) Moneys transferred to the subaccount from the federal government, other state agencies or local governments;

(c) Moneys from the payment of fees and the payment of other moneys due the board;

(d) Any gifts or donations made to the State of Oregon for deposit in the subaccount; and

(e) Earnings on moneys in the subaccount.

(4)(a) The board may use the moneys in the Oregon 529 College Savings Plan Subaccount to pay the administrative costs and expenses of the board and the Oregon 529 Savings Network related to the administration of accounts established for qualified higher education expenses under ORS 178.300 to 178.355, to provide or make available scholarships, grants and other incentives to account owners, potential account owners and their designated beneficiaries[, *to pay for scholarships awarded under ORS 348.270*] or to further any other purpose of ORS 178.300 to 178.355.

(b) The board may use the moneys in the Oregon 529 ABLE Subaccount to pay the administrative costs and expenses of the board and the Oregon 529 Savings Network related to the administration of the qualified ABLE program established under ORS 178.380, to provide or make available incentives to owners of ABLE accounts or potential account owners and their designated beneficiaries or to further any other purpose of the qualified ABLE program established under ORS 178.380.

SECTION 4. Notwithstanding the amendments to ORS 178.320 by section 3 of this 2019 Act, any moneys that were deposited in the Oregon 529 College Savings Plan Subaccount for disbursement to the scholarship program for children of public safety officers established under ORS 348.270 before the effective date of this 2019 Act shall be used to pay for scholarships awarded under ORS 348.270.

Passed by House April 3, 2019

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate April 29, 2019

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Peter Courtney, President of Senate

Received by Governor:

.....M,....., 2019

Approved:

.....M,....., 2019

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2019

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Bev Clarno, Secretary of State